



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JAN 10 2001

CC:TEGE:EOEG:ET1:LEMosakowski
SPR-100170-01

MEMORANDUM FOR THOMAS R. BURGER
CHIEF, REPORTING COMPLIANCE,
EMPLOYMENT TAX

S:C:CP:RE:ET

ALLEN P. JONES
DIRECTOR, FEDERAL, STATE and
LOCAL GOVERNMENTS

T:GE:FSL

MICHAEL J. McGINTY
INTERIM PROGRAM MANAGER,
EMPLOYMENT TAXES - LMSB
OFFICE OF FIELD SPECIALISTS

LM:FS

FROM: MARY OPPENHEIMER *JMO (mc)* CC:TEGE
ASSISTANT CHIEF COUNSEL (EO/EG/ET)

SUBJECT: EFFECT OF LEGISLATIVE AMENDMENT TO INTERNAL
REVENUE CODE SECTION 7436 ON THE NOTICE OF
DETERMINATION CONCERNING WORKER CLASSIFICATION
UNDER SECTION 7436

On December 21, 2000, the President signed the Omnibus Budget Act, P.L. 106-554, 114 Stat. 2763. Section 314(f) of that act amended I.R.C. section 7436 to expand the Tax Court's jurisdiction to determine "the proper amount of employment tax under . . . [the] determination" whether one or more individuals performing services for the taxpayer are employees for purposes of subtitle C or whether the taxpayer is not entitled to the treatment under subsection (a) of section 530 of the Revenue Act of 1978.

Attached is the language that we currently use in a Notice of Determination Concerning Worker Classification under Section 7436 (hereinafter "notice of determination"), as established in Notice 98-43, 1998-33 I.R.B. 13, 16-17. Our office is working to revise the language in the notice of determination to conform to this statutory amendment and to make some other matters clearer.

PMTA : 00417

SPR-100170-01

Until we issue an amended notice, we have decided that the Service may continue to use the language set forth in Notice 98-43. Further, we believe that apart from changing the language and format of the notice of determination, the statutory change will not affect the examination or appeals processes in classification cases.

Linda Mosakowski of Employment Tax Branch One will coordinate with you on the project to amend the language of the notice of determination. She can be reached at (202) 622-6040.

cc: MARIE CASHMAN CC:TEGE:EOEG:ET
SENIOR TECHNICIAN REVIEWER

HELENE WINNICK CC:TEGE:PC/CM
DEPUTY AREA COUNSEL and FIELD EMPLOYMENT TAX COORDINATOR